

F I L E D

Clerk of the Superior Court

JAN 20 2006

BY: L. LIMON

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION

RIVERWATCH, CITY OF OCEANSIDE, and
PALA BAND OF MISSION INDIANS

Petitioners and Plaintiffs,

v.

COUNTY OF SAN DIEGO DEPARTMENT
OF ENVIRONMENTAL HEALTH, ACTING
AS LOCAL ENFORCEMENT AGENCY,
GARY ERBECK, DIRECTOR OF THE
COUNTY OF SAN DIEGO SOLID WASTE
LOCAL ENFORCEMENT AGENCY and
DOES 1-20

Respondents and Defendants,

GREGORY CANYON LTD. and DOES 21-
40,

Real Parties in Interest.

CASE NO. GIN038227

~~PROPOSED~~ PEREMPTORY WRIT OF
MANDATE

PEREMPTORY WRIT OF MANDATE

Judgment having been entered in this proceeding, ordering that a peremptory writ of mandate be issued from this Court,

IT IS ORDERED that, immediately on service of this writ, Respondents County of San Diego Department of Environmental Health and Gary Erbeck, Director of the County of San Diego Solid Waste Local Enforcement Agency shall:

1. Set aside the February 6, 2003 decision certifying the final Environmental Impact Report ("FEIR") for the Gregory Canyon Landfill Project under the California Environmental Quality Act ("CEQA"). This decision is remanded to Respondents for reconsideration.

2. Set aside the June 2, 2004 decision making findings in connection with its approval of the Gregory Canyon Landfill Project under CEQA. This decision is remanded to Respondents for reconsideration.

3. Set aside the June 2, 2004 decisions approving the solid waste facility permit, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Gregory Canyon Landfill Project. These decisions are remanded to Respondents for reconsideration.

4. Set aside the October 8, 2004 decisions approving a revised solid waste facility permit and Supplemental Statement of Overriding Considerations for the Gregory Canyon Landfill Project. These decisions are remanded to Respondents for reconsideration.

Respondents are further ordered to suspend all activity associated with approval of the Gregory Canyon Landfill Project that could result in any change or alteration to the physical environment until Respondents have reconsidered their decisions and brought those decisions into compliance with the requirements of CEQA and Proposition C.

Having found in Petitioners' favor on the issues raised by Petitioners, except for those matters described in the Court's October 3, 2005 Minute Order, the Court finds that the following action is necessary under Public Resources Code § 21168.9(b) to comply with the provisions of CEQA: those actions necessary to bring the analyses of traffic, water supply and mitigation into compliance with CEQA and Proposition C, pursuant to this Court's Minute Order. In addition, Respondents shall comply with Proposition C by requiring additional mitigation for project

1 impacts, as identified in the Court's Minute Order.

2 This writ does not mean that Respondents are required to start the EIR process anew.
3 Rather, Respondents need only correct the deficiencies in the EIR identified above before
4 considering recertification of the EIR. The form of that correction is a matter for Respondents to
5 determine in the first instance. Whether the corrections require recirculation of the EIR, in whole
6 or in part, is for Respondents to decide in the first instance in light of the legal standards
7 governing recirculation of an EIR prior to certification.

8 Under Pubic Resources Code § 21168.9(c), this Court does not direct Respondents to
9 exercise their lawful discretion in any particular way.

10 This Court will retain jurisdiction over Respondents' proceedings by way of a return to
11 this peremptory writ of mandate until the Court has determined that Respondents have complied
12 with the provisions of CEQA and Proposition C.

13 Respondents must file a return to this writ no later than 60 days from the date this writ is
14 entered.

15 Dated: JAN 20 2006

MICHAEL M. ANELLO

JUDGE MICHAEL ANELLO
Judge of the Superior Court

JAN 20 2006

BY: L. LIMON

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
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RIVERWATCH, CITY OF OCEANSIDE, and
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Petitioners and Plaintiffs,

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DOES 1-20

Respondents and Defendants,

GREGORY CANYON LTD. and DOES 21-
40,

Real Parties in Interest.

CASE NO. GIN038227

**~~PROPOSED~~ JUDGMENT GRANTING
PEREMPTORY WRIT OF MANDATE
AND DECLARATORY RELIEF**

1 The Court took this matter for writ of mandate and declaratory relief on submission on
2 September 9, 2005, following a hearing in Department 29 of this Court, located in Vista,
3 California. Attorneys Everett L. DeLano and Walter Rusinek appeared on behalf of Petitioners
4 RiverWatch and Pala Band of Mission Indians, respectively, and Attorneys Michael H. Zischke
5 and Wesley Peltzer appeared on behalf of Respondents the San Diego County Department of
6 Environmental Health, Gary Erbeck, Director of the County of San Diego Local Enforcement
7 Agency, and the Real Parties in Interest, including Gregory Canyon Ltd..

8 The Court has reviewed the extensive administrative record, those items for which
9 judicial notice has been taken, the pleadings and written briefs submitted by counsel, and the
10 arguments of counsel at the hearing. This matter having been submitted for decision, and the
11 Court having issued a Minute Order dated October 3, 2005, directing that judgment and a
12 peremptory writ of mandate be issued in this proceeding,

13 **IT IS ORDERED** that:

14 1. Judgment be entered in favor of Petitioners and for declaratory relief that
15 Respondents' approval of the solid waste facility permit for the proposed Gregory Canyon
16 Landfill Project violated the California Environmental Quality Act ("CEQA") and Proposition C,
17 as identified in the Court's Minute Order.

18 2. A peremptory writ of mandate directed to Respondents issue under seal of this
19 Court ordering Respondents to: (a) set aside their decisions and approvals of the Final
20 Environmental Impact Report, findings, solid waste facility permit, Statement of Overriding
21 Considerations, Mitigation Monitoring and Reporting Program, revised solid waste facility
22 permit, and Supplemental Statement of Overriding Considerations for the proposed Gregory
23 Canyon Landfill Project; (b) suspend all activity associated with approval of the Gregory Canyon
24 Landfill Project that could result in any change or alteration to the physical environment until
25 Respondents have reconsidered their decisions and brought those decisions into compliance with
26 the requirements of CEQA and Proposition C; (c) comply with the provisions of CEQA by
27 performing those actions necessary to bring the analyses of traffic, water supply and mitigation
28 into compliance with CEQA and Proposition C, and in a manner consistent with the Court's

Minute Order; and (d) comply with Proposition C by requiring additional mitigation for project impacts, as identified in the Court's Minute Order.

This writ does not mean that Respondents are required to start the EIR process anew. Rather, Respondents need only correct the deficiencies in the EIR identified above before considering recertification of the EIR. The form of that correction is a matter for Respondents to determine in the first instance. Whether the corrections require recirculation of the EIR, in whole or in part, is for Respondents to decide in the first instance in light of the legal standards governing recirculation of an EIR prior to certification.

3. Petitioners are awarded their costs of suit and attorneys' fees.

4. This Court shall retain jurisdiction to determine Petitioners' entitlement to any such costs and fees and over Respondents' return of the writ.

Dated: JAN 20 2006

MICHAEL M. ANELLO
JUDGE MICHAEL ANELLO
Judge of the Superior Court